



## COMMUNITY DEVELOPMENT DEPARTMENT

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### PLANNING COMMISSION MEETING MINUTES

#### REGULAR MEETING

JANUARY 9, 2007

PRESENT: Acevedo, Koepp-Baker, Benich, Davenport, Escobar, Lyle, Mueller

ABSENT: None

LATE: None

STAFF: Planning Manager (PM) Rowe and Minutes Clerk Johnson.

Chair Benich called the meeting to order at 7:00 p.m. and led the flag salute.

#### **DECLARATION OF POSTING OF AGENDA**

Minutes Clerk Johnson certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

#### **OPPORTUNITY FOR PUBLIC COMMENT**

Anthony Eulo, 15560 La Alameda Dr., Tony Eulo stressed he was appearing to speak with the Commissioners as citizen – not a City employee. However, he said, he wished to point out a recently discovered problem in the community. Mr. Eulo reminded the Commissioners of the shortage of parks in the City, and said he had ascertained areas near high density housing units, where parks might be considered.

Mr. Eulo explained that although there are several 'tot lots' for children in the developments with higher housing densities, there were not opportunities for older children, to play catch, kick a soccer ball, and noting these housing developments *do not* feature back yards. "My concern is that we owe the kids some type of recreation and I have been able to identify two pieces of property within the City: one – a part of the Butterfield Channel north of Dunne Avenue, which is relatively flat and with some work could be engineered for park use. The second is directly between VTA and the Courthouse," Mr. Eulo said. *At that time, he disclosed he is the project manager for a water conservation demonstration garden planned for this area.*

Mr. Eulo continued, "There are three other properties that are not under City ownership, but which have potential for parks:

1. West of the Railroad tracks and west of Dunne (probably these have a higher value for other uses)
2. Corner of Butterfield and Diana
3. Narrow lot between Railroad tracks and the Courthouse."

## PLANNING COMMISSION MEETING MINUTES

January 9, 2007

PAGE 2

Mr. Eulo indicated he will be taking this information to the Parks and Recreation Commission as well, and concluded by asking the Planning Commission for serious consideration of support for the information he had provided. "You may have good influence for other decision makers," Mr. Eulo stated.

Chair Benich assured Mr. Eulo the comments presented would be taken under consideration.

As additional information, PM Rowe reminded that an agenda item would present updates on scoring for the upcoming housing allocation competition, whereby two Parks and Recreation Commissioners are requested to be invited to serve on the work group in conjunction with the subcommittee of the Commission. "They want - and can help promote - greater emphasis on Parks and Recreation within the City," PM Rowe advised.

With no others present to address matters not appearing on the agenda, the public hearing was closed.

### MINUTES:

December 12,  
2006

### COMMISSIONERS MUELLER/ESCOBAR MOTIONED TO APPROVE THE OCTOBER 24, 2006 MINUTES WITH THE FOLLOWING REVISIONS:

Page 2, paragraph 7 (add): *Chair Benich asked questions regarding the necessity of having the pond fenced.*

Page 5, paragraph 6 (add): .....behind, *which he would have preferred.*

Page 6, {motion} ...**A CONDITIONAL ~~USE~~ PERMIT**

Page 9, {chart}:

#### **IV. BUILDING PERMIT SUBMITTAL**

Submit plans to Building Division for plan check:

FY2006-07 (4units)	08-01-2006
FY2008-09 (1 unit*)	05-15-2008
<i>(*to be added to FY 2009-10 ~ but not included in total for 09-10)</i>	
FY 2009-10 (10 units)	05-15-2009

#### **V. BUILDING PERMITS**

Obtain Building Permits:

FY2006-07 (4units)	01-31-2007
FY2008-09 (1 unit*)	09-30-2008
<i>(*to be added to FY 2009-10 ~ but not included in total for 09-10)</i>	
FY2009-10 (10 units)	09-30-2009

Commence Construction:

FY2006-07 (4 units)	04-30-2007
FY2008-09 (1 unit)	04-30-2009
<i>(*to be added to FY 2009-10 ~ but not included in total for 09-10)</i>	
FY 2009-10 (10 units)	04-30-2010

## PLANNING COMMISSION MEETING MINUTES

January 9, 2007

PAGE 3

Page 11, paragraph 5: *Commissioner Mueller and Chair Benich advocated the Santa Clara Valley Water District as the lead agency in funding the water conservation plan. Additionally, Chair Benich continued to speak strongly in favor of requiring dual systems for all new constructing with the water not used for waste disposal to be used for landscaping.*

Page 13 (bottom) 2nd bullet: ....adjust *project C/P criteria-related commitments since the MHUSD impact fees have been increased*

Page 14, paragraph 3: (1) ~~goals for~~ *inclusion of plans for the use of renewable energy*

Page 15, paragraph 1: ....some *direction*

**THE MOTION CARRIED (7-0): BY THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, KOEPP-BAKER, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.**

### **PUBLIC HEARING:**

**1) UPA-05-15:  
VINEYARD-  
KFG/DANCE  
UNLIMITED**

A request to amend the Use Permit to allow a Dance Studio to go into an existing building on the corner of Vineyard and Concord Cir. at 15750 Vineyard Blvd, Suite #120. The subject site is approximately 3.24 acres and is zoned Planned Unit Development (PUD) with an underline designation of Industrial.

PM Rowe presented the staff report and told of the proposed location, which will make use of a space directly adjacent to that current utilized for the same purpose. The applicant is proposing to relocate to enlarge the space for the studio, as they feel is currently inadequate. Noting the need for findings for a Conditional Use Permit, PM Rowe called attention to page 2 (C) wherein the safety of children is noticed. This finding is of primary consideration where children are a part of the mix as we study the adjacent uses and operations that may present conflicts, but there are none in this case. Calling attention to another local youth-oriented gymnastics facility, PM Rowe said that Conditions of Approval (items F-G-H of the proposed Resolution) had been crafted to meet needs of this business since it is located in an industrial area, which will require notice to property owners, that there may be some potential restrictions of use.

Commissioner Acevedo referenced the staff report, wherein indication was this was an *amendment* to a use permit, but this seems a new use permit. Responding, PM Rowe explained that the original permit was approved in 2005 and runs with the land, consequently, this application was received as an amendment to the existing use permit.

*Disclosure: Commissioner Mueller acknowledged he had met with the applicant.*

Chair Benich opened the public hearing.

Speaking to the applicant, Commissioner Lyle questioned the upper age limit in item G of the proposed Resolution, asking if this were logical at this location?

Jackie Butkivich, 10346 New Ave., was present to address the matter, and said that since the classes were in late afternoon – early evening (4:00 – 9:00 p.m.) the business owners liked to have the students escorted out.

## PLANNING COMMISSION MEETING MINUTES

January 9, 2007

PAGE 4

Chair Benich commented that at the age of 13 or 14, kids ride bikes and the restriction for 15-year olds to be escorted 'seems high' and stated the restriction is 'too much'.

Ms. Butkivich said the students do not ride bikes to the studio; they are brought by the parents.

"Do they drive in, get out, and call for the children?" Commissioner Lyle asked. Ms. Butkivich said they do just that.

Commissioner Koepp-Baker asked in the lessons are for children only? Ms. Butkivich said lessons are given to both children and adults.

With no others present to address the matter, the public hearing was closed.

Commissioner discussion followed:

Commissioner Lyle: older youth may not need escort

Commissioner Acevedo: should retain same Conditions for consistency (citing the gymnastics facility on Adams Court)

Commissioner Lyle: Adams Court has 'funny things', one way traffic aisle into the facility, and location is behind other industrial facilities, so older kids may require escort

**COMMISSIONER MUELLER OFFERED A RESOLUTION APPROVING AN AMENDMENT TO A USE PERMIT TO ALLOW A DANCE STUDIO LOCATED AT 15750 VINEYARD BLVD., SUITE 120 WITH THE FOLLOWING MODIFICATION:**

**G. ...~~15~~ 12 years old age**

**COMMISSIONER DAVENPORT SECONDED THE MOTION, NOTING THE INCLUSION OF THE FINDINGS AND CONDITIONS IN THE RESOLUTION. THE MOTION PASSED (7-0): WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, KOEPP-BAKER, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.**

Commissioner Mueller commented to the applicants that, unless there is an appeal within 30 days, the use permit becomes valid. Commissioner Lyle clarified that the owner can change requirements for times, etc., to fit the business needs, so long as it the basics of the Resolution are met.

*Commissioner Lyle was excused at 7:15 p.m. due to potential for conflict of interest as he owns property in the area.*

**2) ZAA-04-01:  
A DEVELOPMENT  
AGREEMENT  
AMENDMENT,  
DAA-04-08A:  
TILTON-  
GLENROCK**

A request to amend the precise development plan and development agreement, defining phases 8 - 10 of the Capriano subdivision located on the west side of Hale Ave., south of Tilton Ave. The proposed amendments include the use of different models and a 7 and 3-month extension of the commencement of construction dates within the development agreement for the 2007-08 & 2008-09 fiscal year allocations.

## PLANNING COMMISSION MEETING MINUTES

January 9, 2007

PAGE 5

PM Rowe presented the staff report, advising that in a letter received from Dick Oliver, who has been working with Rocke Garcia on the 'Villas of Capriano'. Mr. Oliver said that due to the holidays, and the fact that the architect has had difficulty in trying to meet all the requirements, a two-week continuance was being requested.

Chair Benich opened, then closed, the public hearing as none were present indicating a wish to address the matter.

**COMMISSIONERS MUELLER/ACEVEDO MOTIONED TO CONTINUE THE MATTER OF ZAA-04-01: A DEVELOPMENT AGREEMENT AMENDMENT, DAA-04-08A: TILTON-GLENROCK, TO THE JANUARY 23, 2007 PLANNING COMMISSION MEETING. COMMISSIONER ACEVEDO SECOND THE MOTION, WHICH PASSED (6-0-1), WITH COMMISSIONER LYLE ABSENT.**

*Commissioner Lyle rejoined the meeting at 7:26 p.m.*

*For the benefit of the students present, Chair Benich provided an overview of the upcoming item.*

### 3) WORK PLAN FOR THE PLANNING COMMISSION MEASURE C UPDATE SUBCOMMITTEE

PM Rowe presented the staff report, advising that a work plan for the 2007 Planning Commission RDCS Subcommittee had been distributed to the Commissioners, which was available to the public, as well.

Highlights from the work sheet included:

- Measure F created a set-aside of up to 100 additional residential unit allotments for projects of up to 25 units within the downtown core, defined as from south of Main, north of Dunne, east of Del Monte, and west of the railroad tracks.
- PM Rowe advised the Measure provides that the City Council may establish procedures for scoring and awarding the 100 allotments, which may not require a competition but which shall provide that all projects must achieve a minimum score for the project type, and which may allow for flexible project start and completion dates. As the first priority in the subcommittee's work plan policies and procedures will be prepared for allocating the 100 units.

As to scoring, PM Rowe reiterated the criteria in various categories:

#### Schools

- payment of adopted developer fees
- requirement that on-site community rooms be sized for programs

#### Open Space

- plaques and marker requirements
- allow podium level courtyards that are open above (definition change)
- potential for double payment of in-lieu fees for maintenance of open space lands

#### Public Facilities

- point system - possible minimum dollar value for public art
- clarify that certain funds will be applied to capital improvements (streets/infrastructure – not buildings)

## PLANNING COMMISSION MEETING MINUTES

January 9, 2007

PAGE 6

### Parks and Pathways

- consider site recreation amenities list for vertical mixed use and higher density developments (bicycle paths may not work)
- need to better define mid-block pedestrian connections
- need discussion of in-lieu fees for providing private parks and on-site recreation services

### Housing Needs

- moderate rate units must be sized to sell at market to moderate income household
- final sales price shall be based on HUD guidelines

### Quality of Construction

- eligibility of single building projects with no elevation repeats
- set goals for renewable energy
- allow double plumbing for recycling and grey water use

### Natural and Environmental

- additional criteria needed for restricting use of hazardous materials

Regarding the proposed workshop with developers on the impact fees issues, PM Rowe advised the developers would like to participate. PM Rowe suggested that would be important for the working group as well as the subcommittee. He noted the City Council has suggested a reduction of fees in the redevelopment area, as well as lessening other fees, and this proposal for the work plan will be heard by the Councilmembers at the January 17, 2007 meeting.

As to timing for the Commission subcommittee, PM Rowe said staff has targeted February 13, 2007 for hearing by the full Commission with closure of the issues by the first of March, 2007. Then adoption by the Planning Commission could be anticipated for April, 2007. PM Rowe advised that the Parks and Recreation Commissioners expect to appoint two members to the working group at their January 16, 2007 meeting. For clarity, PM Rowe spoke on the expected duties of both the working group and the Planning Commission subcommittee as well as the interaction of the two groups.

Commissioner Lyle asked about the competition for this year, inquiring if it was only for downtown, and not a competition for the market rate allocations. PM Rowe clarified that a market rate competition was expected, with a final filing date set for September, 2007.

Commissioner Lyle said he could not understand why that would be done as that will cause the developers to be working two years out. PM Rowe responded that the development community has requested a competition a year earlier so they would be in a position to substantially complete a development. Commissioner Lyle commented that most of the items on the criteria list (work plan) are specific to the downtown. "We have previously identified a number of problems that need to be look at, as well from the prior year Open/Market competition," Commissioner Lyle said. "That information is getting old. To update criteria requires that any leftover items from prior competitions be dealt with."

Commissioner Koepp-Baker asked if the use of HUD reference is linked to Community Service Block Grants. [Yes]

## PLANNING COMMISSION MEETING MINUTES

January 9, 2007

PAGE 7

Chair Benich asked for clarification as to Measure C the population limit (48,000) for 2020, with the additional 100 units in the downtown and how that limit affects construction estimates for the competitions. Chair Benich also spoke on the recent 'huge increase' in schools fees, which he described as a 65% increase from the prior competition. PM Rowe replied that under the recent approved Measure F, the population limit remains at 48,000 and that slightly fewer building allocations would be available to other projects in the remaining years to 2020.

Chair Benich opened the public hearing.

Dick Oliver, 385 Woodview Ave., #100, echoed an issue raised by Commissioner Lyle: if a market rate competition can be held then delayed for two years? "I think this may be highly questionable under Measure C. Please ask the City Attorney for a decision on this then let the development community know as soon as possible," Mr. Oliver said. "Additionally, in the past, the Commissioners have had developers work with the Subcommittee and I would like to suggest you have one or two developers on the subcommittee or the work group as non-voting members." Mr. Oliver volunteered himself, Scott Schilling, and Rocke Garcia as developers who have indicated interest.

The public hearing was closed as no others were present to address the matter.

Commissioner Lyle presented items to be considered by the Subcommittee:

- how (for downtown) to insure proposed projects will be built in a timely manner (in the competition guidelines it is implied there should be a target-finish date)
- concern that awards not be given to projects where there is not intent to complete or 'not in a rush to build'

Commissioner Mueller interjected these matters can be addressed in a Development Agreement where the schedule can be set.

Commissioner Lyle insisted there must assurance the projects will be built.

PM Rowe interpose that a document can be constructed which will stipulate the developer must enter into a Development Agreement.

Commissioner Lyle continued with the list, saying part of intent for the downtown competition is to get retail/mixed use units and the last thing the City wants to see are projects which 'grab' allotments but the City does not get mixed use. "We need to concentrate on how to reduce the probability that a bad project gets ~~reduced~~ *approved* (i.e., no retail *component*, no *timely completion*, or *not designed to be compatible with the downtown plan*) but set the criteria so we can insure that does not happen. When Chair Benich suggested that could be achieved through an evaluation criteria, Commissioner Lyle responded, "The evaluation criteria is soft now and may become softer. My fear is: anything can qualify." He urged setting criteria to eliminate such possibility.

Commissioner Acevedo spoke on the possibility of having zero points in a category if there is an architectural element which would not 'work' in the downtown, for example, or if the developer puts in something we don't want downtown, there should

## PLANNING COMMISSION MEETING MINUTES

January 9, 2007

PAGE 8

be a possibility for a total zero. Commissioner Lyle suggested this might alleviated through the work of the ARB. Commissioner Mueller cautioned, "What has been presented at this meeting is not an all inclusive list of what the subcommittee will be considering. It is not a limiting list but a starting point of what needs to be looked at."

Commissioner Escobar requested clarification on when/how the subcommittee would report to the full commission. PM Rowe explained that the subcommittee and working group would grasp the issues; then work on those, with a report to the full Commission followed by what will probably be a more 'inclusive workshop'. PM Rowe stressed the subcommittee will be working robustly on the scoring criteria. Chair Benich indicated interest in receiving status reports.

Commissioner Lyle talked about scoring unique problems and wondered if the subcommittee would tackle that issue?

The subcommittee members will be: Commissioner Davenport, Commissioner Koepp-Baker, and Commissioner Lyle. PM Rowe advised this subcommittee will be meeting once per week. He also cautioned that the list(s) presented at this meeting were not all inclusive. Commissioner Mueller said, "It is a work plan starting point." Commissioner Escobar agreed, saying, "It sill can be modified and changed as the subcommittee reports back."

Commissioner Lyle reminded of Mr. Oliver's request to have the City Attorney's give an opinion on the competition for market rate housing.

Commissioner Mueller also asked that staff check with the City Attorney regarding if projects could have an earlier start and completion time which had been an item of interest a year ago.

**COMMISSIONERS MUELLER/ESCOBAR MOTIONED APPROVAL OF THE SUBCOMMITTEE WORK PLAN, AND AFFIRMED THE MEMBERSHIP OF THE SUBCOMMITTEE. THE MOITION PASSED (7-00): WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, KOEPP-BAKER, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.**

### **ANNOUNCEMENTS:**

PM Rowe announced that at the City Council meeting on December 20, 2006, the zoning for DelMonte/Giovanni had been approved as recommended by the Commissioners.

Chair Benich asked if any communication has been received from CalTrans regarding fencing. PM Rowe advised that has not occurred, but the follow-up letter had been sent.

Commissioner Davenport determined that PM Rowe would notify the subcommittee of scheduled meetings once arrangements were completed.

### **ADJOURNMENT:**

Noting that there was no further business to come before the Commissioners at this meeting, Chair Benich adjourned the meeting at 7:53 p.m.



**PLANNING COMMISSION MEETING MINUTES**

**January 9, 2007**

**PAGE 9**

**MINUTES PREPARED BY:**

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**JUDI H. JOHNSON, Minutes Clerk**